

American Legal History – Russell

An act to confer Civil Rights on Freedmen, and for other purposes., Laws of Mississippi. (1865).

CHAPTER IV.

Section 1. **Be it enacted by the Legislature of the State of Mississippi**, That all freedmen, free negroes and mulattoes may sue and be sued, implead and be impleaded in all the courts of law and equity of this State, and may acquire personal property and choses in action, by descent or purchase, and may dispose of the same, in the same manner, and to the same extent that white persons may: Provided that the provisions of this section shall not be so construed as to allow any freedman, free negro or mulatto, to rent or lease any lands or tenements, except in incorporated towns or cities in which places the corporate authorities shall control the same.

Sec. 2. Be it further enacted, That all freedmen, free negroes and mulattoes may intermarry with each other, in the same manner and under the same regulations that are provided by law for white persons: Provided, that the clerk of probate shall keep separate records of the same.

Sec. 3. Be it further enacted, That all freedmen, free negroes and mulattoes, who do now and have heretofore lived and cohabited together as husband and wife shall be taken and held in law as legally married, and the issue shall be taken and held as legitimate for all purposes. That it shall not be lawful for any freedman, free negro or mulatto to intermarry with any white person; nor for any white person to intermarry with any freedman, free negro or mulatto; and any person who shall so intermarry shall be deemed guilty of felony, and on conviction thereof, shall be confined in the State Penitentiary for life; and those shall be deemed freedmen, free negroes and mulattoes who are of pure negro blood, and those descended from a negro to the third generation inclusive, though one ancestor of each generation may have been a white person.

Sec. 4. Be it further enacted, That in addition to cases in which freedmen, free negroes and mulattoes are now by law competent witnesses, freedmen, free negroes or mulattoes shall be competent in civil cases when a party or parties to the

suit, either plaintiff or plaintiffs, defendant or defendants, also in cases where freedmen, free negroes and mulattoes is or are either plaintiff or plaintiffs, defendant or defendants, and a white person or white persons is or are the opposing party or parties, plaintiff or plaintiffs, defendant or defendants. They shall also be competent witnesses in all criminal prosecutions where the crime charged is alleged to have been committed by a white person upon or against the person or property of a freedman, free negro or mulatto: Provided that in all cases said witnesses shall be examined in open court on the stand, except however, they may be examined before the grand jury, and shall in all cases be subject to the rules and tests of the common law as to competency and credibility.

Sec. 5. Be it further enacted, That every freedman, free negro and mulatto, shall, on the second Monday of January, one thousand eight hundred and sixty-six, and annually thereafter, have a lawful home or employment, and shall have written evidence thereof, as follows, to wit: if living in any incorporated city, town or village, a license from the mayor thereof; and if living outside of any incorporated city, town or village, from the member of the board of police of his beat, authorizing him or her to do irregular and job work, or a written contract, as provided in section sixth of this act, which licenses may be revoked for cause, at any time, by the authority granting the same.

Sec. 6. Be it further enacted, That all contracts for labor made with freedmen, free negroes and mulattoes, for a longer period than one month shall be in writing and in duplicate, attested and read to said freedman, free negro or mulatto, by a beat, city or county officer, or two disinterested white persons of the county in which the labor is to be performed, of which each party shall have one; and said contracts shall be taken and held as entire contracts, and if the laborer shall quit the service of the employer, before expiration of his term of service, without good cause, he shall forfeit his wages for that year, up to the time of quitting.

Sec. 7. Be it further enacted, That every civil officer shall, and every person may arrest and carry back to his or her legal employer any freedman, free negro or mulatto, who shall have quit the service of his or her employer before the expiration of his or her term of service without good cause, and said officer and person shall be entitled to receive for arresting and carrying back every deserting employee aforesaid, the sum of five dollars, and ten cents per mile from the place of arrest to the place of delivery, and the same shall be paid by the employer, and held as a set-off for so much against the wages of said deserting employee: Provided that said arrested party after being so returned may appeal to a justice of the peace or member of the board of police of the county, who on notice to the

alleged employer, shall try summarily whether said appellant is legally employed by the alleged employer and has good cause to quit said employer; either party shall have the right of appeal to the county court, pending which the alleged deserter shall be remanded to the alleged employer, or otherwise disposed of as shall be right and just, and the decision of the county court shall be final.

Sec. 8. Be it further enacted, That upon affidavit made by the employer of any freedman, free negro or mulatto, or other credible person, before any justice of the peace or member of the board of police, that any freedman, free negro or mulatto, legally employed by said employer, has illegally deserted said employment, such justice of the peace or member of the board of police, shall issue his warrant or warrants, returnable before himself, or other such officer, directed to any sheriff, constable or special deputy, commanding him to arrest said deserter and return him or her to said employer, and the like proceedings shall be had as provided in the preceding section; and it shall be lawful for any officer to whom such warrant shall be directed, to execute said warrant in any county of this State, and that said warrant may be transmitted without endorsement to any like officer of another county, to be executed and returned as aforesaid, and the said employer shall pay the cost of said warrants and arrest and return, which shall be set off for so much against the wages of said deserter.

Sec. 9. Be it further enacted, That if any person shall persuade or attempt to persuade, entice or cause any freedman, free negro or mulatto, to desert from the legal employment of any person, before the expiration of his or her term of service, or shall knowingly employ any such deserting freedman, free negro or mulatto, or shall knowingly give or sell to any such deserting freedman, free negro or mulatto, any food, rayment or other thing, he or she shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars and not more than two hundred dollars and the costs, and if said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding two months imprisonment in the county jail, and he or she shall moreover be liable to the party injured in damages: Provided, if any person shall, or shall attempt to persuade, entice, or cause any freedman, free negro or mulatto, to desert from any legal employment of any person, with the view to employ said freedman, free negro or mulatto, without the limits of this State, such person, on conviction, shall be fined not less than fifty dollars and not more than five hundred dollars and costs, and if said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding six months imprisonment in the county jail.

Sec. 10. Be it further enacted, That it shall be lawful for any freedman, free negro or mulatto to charge any white person, freedman, free negro or mulatto, by affidavit, with any criminal offence against his or her person or property and upon such affidavit the proper process shall be issued and executed as if said affidavit was made by a white person, and it shall be lawful for any freedman, free negro or mulatto, in any action, suit or controversy pending, or about to be instituted, in any court of law or equity of this State, to make all needful and lawful affidavits, as shall be necessary for the institution, prosecution or defence of such suit or controversy.

Sec. 11. Be it further enacted, That the penal laws of this State, in all cases not otherwise specially provided for, shall apply and extend to all freedmen, free negroes and mulattoes.

Sec. 12. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved November 25, 1865.

CHAPTER V.

An act to be entitled "An act to regulate the relation of Master and Apprentice, as relates to Freedmen, Free Negroes, and Mulattoes..

Section 1. **Be it enacted by the Legislature of the State of Mississippi**, That it shall be the duty of all sheriffs, justices of the peace, and other civil officers of the several counties in this State, to report to the probate courts of their respective counties, semi-annually, at the January and July terms of said courts, all freedmen, free negroes and mulattoes, under the age of eighteen, within their respective counties, beats or districts, who are orphans, or whose parent or parents have not the means, or who refuse to provide for and support said minors, and thereupon it shall be the duty of said probate court, to order the clerk of said court to apprentice said minors to some competent and suitable person, on such terms as the court may direct, having a particular care to the interest of said minor: Provided, that the former owner of said minors shall have the preference, when in the opinion of the court, he or she shall be a suitable person for that purpose.

Sec. 2. Be it further enacted, That the said court shall be fully satisfied that the person or persons to whom said minor shall be apprenticed, shall be a suitable person to have the charge and care of said minor, and fully to protect the interest of said minor. The said court shall require the said master or mistress to execute bond

and security, payable to the State of Mississippi, conditioned that he or she shall furnish said minor with sufficient food and clothing, to treat said minor humanely, furnish medical attention in case of sickness; teach or cause to be taught him or her to read and write, if under fifteen years old, and will conform to any law that may be hereafter passed for the regulation of the duties and relation of master and apprentice: Provided, that said apprentice shall be bound by indenture, in case of males until they are twenty-one years old, and in case of females until they are eighteen years old.

Sec. 3. Be it further enacted, That in the management and control of said apprentices, said master or mistress shall have power to inflict such moderate corporeal chastisement as a father or guardian is allowed to inflict on his or her child or ward at common law: Provided, that in no case shall cruel or inhuman punishment be inflicted.

Sec. 4. Be it further enacted, That if any apprentice shall leave the employment of his or her master or mistress, without his or her consent, said master or mistress may pursue and recapture said apprentice, and bring him or her before any justice of the peace of the county whose duty it shall be to remand said apprentice to the service of his or her master or mistress; and in the event of a refusal on the part of said apprentice so to return, then said justice shall commit said apprentice to the jail of said county, on failure to give bond, until the next term of the county court; and it shall be the duty of said court, at the first term thereafter, to investigate said case, and if the court shall be of opinion that said apprentice left the employment of his or her master or mistress without good cause, to order him or her to be punished, as provided for the punishment of hired freedmen, as may be from time to time provided for by law, for desertion, until he or she shall agree to return to his or her master or mistress: Provided, that the court may grant continuances, as in other cases; and provided, further, that if the court shall believe that said apprentice had good cause to quit his said master or mistress, the court shall discharge said apprentice from said indenture, and also enter a judgment against the master or mistress, for not more than one hundred dollars, for the use and benefit of said apprentice, to be collected on execution, as in other cases.

Sec. 5. Be it further enacted, That if any person entice away any apprentice from his or her master or mistress, or shall knowingly employ an apprentice, or furnish him or her food or clothing, without the written consent of his or her master or mistress, or shall sell or give said apprentice ardent spirits, without such consent, said person so offending shall be deemed guilty of a high misdemeanor, and shall, on conviction thereof before the county court, be punished as provided for the

punishment of persons enticing from their employer hired freedmen, free negroes or mulattoes.

Sec. 6. Be it further enacted, That it shall be the duty of all civil officers of their respective counties to report any minors within their respective counties, to said probate court, who are subject to be apprenticed under the provisions of this act, from time to time, as the facts may come to their knowledge, and it shall be the duty of said court, from time to time, as said minors shall be reported to them or otherwise come to their knowledge, to apprentice said minors as hereinbefore provided.

Sec. 7. Be it further enacted, That in case the master or mistress of any apprentice shall desire, he or she shall have the privilege to summon his or her said apprentice, to the probate court, and thereupon, with the approval of the court, he or she shall be released from all liability as master of said apprentice, and his said bond shall be cancelled, and it shall be the duty of the court forthwith to re-apprentice said minor; and in the event any master of an apprentice shall die before the close of the term of service of said apprentice, it shall be the duty of the court to give the preference in re-apprenticing said minor to the widow, or other member of said master's family: Provided, that said widow, or other member of said family shall be a suitable person for that purpose.

Sec. 8. Be it further enacted, That in case any master or mistress of any apprentice, bound to him or her under this act, shall be about to remove, or shall have removed to any other State of the United States by the laws of which such apprentice may be an inhabitant thereof, the probate court of the proper county may authorize the removal of such apprentice to such State, upon the said master or mistress entering into bond, with security, in a penalty to be fixed by the judge, conditioned that said master or mistress will, upon such removal, comply with the laws of such State in such cases: Provided, that said master shall be cited to attend the court at which such order is proposed to be made, and shall have a right to resist the same by next friend, or otherwise.

Sec. 9. Be it further enacted, That it shall be lawful for any freedman, free negro or mulatto, having a minor child or children, to apprentice the said minor child or children as provided for by this act.

Sec. 10. Be it further enacted, That in all cases where the age of the freedman, free negro or mulatto, cannot be ascertained by record testimony, the judge of the county court shall fix the age.

Sec. 11. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved November 22, 1865.

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Sec. 2. Be it further enacted, That all freedmen, free negroes and mulattoes in this State, over the age of eighteen years, found on the second Monday in January, 1866, or thereafter, with no lawful employment or business, or found unlawfully assembling themselves together either in the day or night time, and all white persons so assembling with freedmen, free negroes or mulattoes, or usually associating with freedmen, free negroes or mulattoes on terms of equality, or living in adultery or fornication with a freedwoman, free negro, or mulatto, shall be deemed vagrants, and on conviction thereof, shall be fined in the sum of not exceeding, in the case of a freedman, free negro or mulatto, fifty dollars, and a white man two hundred dollars, and imprisoned at the discretion of the court, the free negro not exceeding ten days, and the white man not exceeding six months.

Sec. 5. Be it further enacted, That all fines and forfeitures collected under the provisions of this act shall be paid into the county treasury for general county purposes, and in case any freedman, free negro or mulatto, shall fail for five days after the imposition of any fine or forfeiture upon him or her for violation of any of the provisions of this act, to pay the same, that it shall be, and is hereby made the duty of the sheriff of the proper county to hire out said freedman, free negro or mulatto, to any person who will, for the shortest period of service, pay said fine or forfeiture and all costs: Provided, a preference shall be given to the employer, if there be one, in which case the employer shall be entitled to deduct and retain the amount so paid from the wages of such freedman, free negro or mulatto then due or to become due; and in case such freedman, free negro or mulatto cannot be hired out he or she may be dealt with as a pauper.

Sec. 6. Be it further enacted, That the same duties and liabilities existing among white persons of this State shall attach to freedmen, free negroes and mulattoes to support their indigent families, and all colored paupers; and that in order to secure a support for such indigent freedmen, free negroes and mulattoes, it shall be lawful, and it is hereby made the duty of the boards of county police of each county in this State, to levy a poll or capitation tax on each and every freedman, free negro or mulatto, between the ages of eighteen and sixty years, not to exceed

the sum of one dollar annually, to each person so taxed, which tax, when collected, shall be paid into the county treasurer's hands, and constitute a fund to be called the Freedman's Pauper Fund, which shall be applied by the commissioners of the poor for the maintenance of the poor of the freedmen, free negroes and mulattoes of this State under such regulations as may be established by the boards of county police, in the respective counties of this State.

Sec. 7. Be it further enacted, That if any freedman, free negro or mulatto shall fail, or refuse to pay any tax levied according to the provisions of the sixth section of this act, it shall be **prima facie** evidence of vagrancy, and it shall be the duty of the sheriff to arrest such freedman, free negro or mulatto, or such person refusing or neglecting to pay such tax, and proceed at once to hire, for the shortest time, such delinquent tax payer to any one who will pay the said tax, with accruing costs, giving preference to the employer, if there be one.

Approved, November 24, 1865